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5 Attorney for Debtor

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UNITED STATES BANKRUPTCY COURT

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CENTRAL DISTRICT OF CALIFORNIA

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LOS ANGELES DIVISION

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In re:)) Case No.: 2:14-bk-12600-RN

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Annie Issagholyan,)) Chapter 7

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Debtor.)) NOTICE OF MOTION AND DEBTOR'S

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)) MOTION TO VACATE ORDER DISMISSING

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)) CHAPTER 7 CASE; MEMORANDUM OF

)) POINTS AND AUTHORITIES; EXHIBITS

)) AND DECLARATION OF DEBTOR'S

)) COUNSEL IN SUPPORT THEREOF

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))

)) Hearing Information:

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)) DATE: May 8, 2014

)) TIME: 9:00 a.m.

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)) CTRM: 1645, Sixteenth Floor

)) U.S. Bankruptcy Court

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)) 255 East Temple Street

)) Los Angeles, CA 90012

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TO THE HONORABLE RICHARD M. NEITER, CHAPTER 7 TRUSTEE JOHN J.

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MENCHACA, CREDITORS, AND ALL INTERESTED PARTIES:

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NOTICE IS HEREBY GIVEN that Debtor's counsel Romel Ambarchyan

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("Movant") hereby moves this Court for an order vacating the dismissal

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of the instant case on the basis that the dismissal arose from

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attorney error. Specifically, Movant failed to check a box on the

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"Debtor's Certification of Employment Income pursuant to 11 U.S.C. §


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521(a)(1)(B)(iv). The Debtor is self-employed.

1 Written responses, if any, must be filed with the Court and
2 served upon the Debtor and her counsel in conformance with Local
3 Bankruptcy Rule 9013-1(7) and not less than 14 days prior to the
4 above-captioned hearing. Failure to file and serve such written
5 response(s) may be deemed to constitute a waiver and consent to the
6 relief requested herein.

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8 DATED: April 9, 2014

RA & Associates, APC

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11 Romel Ambarchyan
12 Attorney for Debtor, Movant
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1 This Motion is based upon the following Memorandum of Points and
2 Authorities, the attached declaration of Debtor's counsel Romel
3 Ambarchyan, all records and pleadings on file in this case, as well as
4 such oral and documentary evidence as may be presented. In support
5 thereof, Movant submits the following:

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7 MEMORANDUM OF POINTS & AUTHORITIES

8 STATEMENT OF FACTS

9 The Debtor filed a voluntary petition under Chapter 7 on February
10 11, 2014 through her attorney of record, Mr. Romel Ambarchyan
11 ("Movant"). John J. Menchaca ("Trustee") is the standing trustee
12 assigned to this case.

13 On April 13, 2014, the Court issued a "Case Commencement
14 Deficiency Notice to include Debtor's Cert of Empl Income (to check
15 applicable box on form or paystubs are required [sic])" which shall
16 hereinafter be referred to as the "Deficiency Notice."

17 A copy of the Deficiency Notice is attached hereto as Exhibit 1.

18 Movant did not, pursuant to 11 U.S.C. § 521(a)(3), request an
19 extension of the 45-day deadline to file documents and information
20 required by 11 U.S.C § 521(a)(1).

21 The meeting of creditors under 11 U.S.C. § 341(a) was held on
22 March 25, 2014 and continued to April 14, 2014.

23 The instant case was dismissed on April 7, 2014. The order
24 dismissing the instant case was not entered at the request of any
25 parties in interest, but arises from an "automatic dismissal" of the
26 case pursuant to 11 U.S.C. § 521(a)(1).

27 A copy of the Dismissal Order is attached hereto as Exhibit 2.

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1 ARGUMENT

2 Pursuant to 11 U.S.C. § 521(i)(1), the failure of the Debtor to
3 file documents and information required by 11 U.S.C. § 521(a)(1)
4 within 45 days of a petition filing mandates an automatic dismissal of
5 the Debtor's case.

6 There is some authority holding that a court may, in
7 extraordinary circumstances, excuse the filing of information required
8 by § 521(a)(1)(B) after the time for filing such information expires.
9 *See Wirrum v. Warren (In re Warren)*, 568 F3d 1113 (9th Cir.2009);
10 *Segarra-Miranda v. Acosta-Rivera (In re Acosta-Rivera)*, 557 F.3d 8 (1st
11 Cir.2009). However, in those cases the debtors sought dismissal under
12 § 521(i) in an attempt to prevent investigation into the debtor's
13 financial situation and the circumstances surrounding their respective
14 filings.

15 Federal Rule of Civil Procedure 60, made applicable by Bankruptcy
16 Rule 9024, allows, in pertinent part, the Court to relieve a party or
17 its legal representative from a final judgment, order or proceeding
18 for mistake, inadvertence, surprise, or excusable neglect.

19 Furthermore, a motion under Rule 60(b) must be made within a
20 reasonable time from entry of the order from which it seeks relief.
21 That is, one year.

22 In the instant case, Debtor's counsel failed to check an
23 applicable box on the Debtor's Certification of Employment Income
24 pursuant to 11 U.S.C. § 521(a)(1)(B)(iv). No bad faith on the part of
25 the Debtor or her counsel is evident, and failure to "check a box"
26 appears to be an excusable error on the part of Debtor's counsel.

27 All other documents and information required under 11 U.S.C. §
28 521(a)(1) have been filed in the instant case.

1 Granting of the relief requested in the instant Motion would not
2 cause undue hardship on other parties, as the denial of this Motion
3 would cause the Debtor to file a second bankruptcy proceeding. This
4 would cause undue hardship on the Debtor as, again, the dismissal of
5 the instant case arose not from a mistake or bad faith of her own
6 doing, but on an excusable neglect of her counsel, the Movant.

7 A filing of a subsequent bankruptcy proceeding under Chapter 7 by
8 the Debtor might cause undue hardship on other parties, as the delays
9 caused by a necessary rescheduling of a new meeting under 11 U.S.C. §
10 341(a) and re-filing of any pleadings already filed in the instant
11 case would consume additional time and resources.

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13 CONCLUSION

14 In light of the foregoing, Debtor respectfully requests an order
15 of the Court as follows:

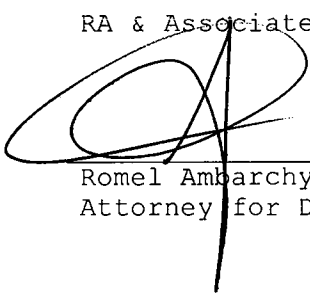
16 1. That the order dismissing the instant Chapter 7 bankruptcy
17 proceeding be vacated;

18 2. That a new meeting of creditors under § 341(a) be set by
19 the Court;

20 3. For other such relief as the Court may deem appropriate.

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22 DATED: April 9, 2014

RA & Associates, APC

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25 Romel Ambarchyan
26 Attorney for Debtor, Movant
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DECLARATION

DECLARATION OF ROMEL AMBARCHYAN

I, Romel Ambarchyan, declare and state as follows:

1. I am an attorney at law, licensed to practice before all courts in the State of California and the Central District of California Federal Courts. I am over the age of eighteen years, and if called upon to testify, I could and would do so competently. I am the Plaintiff's attorney of record and have personal knowledge of the facts set forth herein, and based on that personal knowledge I assert that all such facts are true and correct to the best of my knowledge. To the extent I base my testimony upon information and belief or upon admissible evidence other than my personal knowledge, I will specifically state.

2. I am the attorney-of-record for Debtor Annie Issagholyan ("Debtor") in the instant Chapter 7 case, assigned case number 2:14-bk-12600-RN.

3. Attached hereto as Exhibit 1 is a true, correct and complete copy of the "Case Commencement Deficiency Notice to include Debtor's Cert of Empl Income (to check applicable box on form or paystubs are required [sic])."

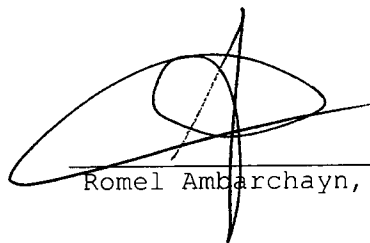
4. Attached hereto as Exhibit 2 is a true, correct and complete copy of the order dismissing the instant case.

5. For the reasons stated in the attached Motion, I respectfully request that the Court vacate the order dismissing the instant case.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

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Executed this 9th day of April, 2014, at Glendale, California.

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a vertical line and a horizontal stroke, crossing the line.

Romel Ambarchayn, Declarant

EXHIBIT 1

Form CACB 108 (disord521a)
Rev. (03/09)

**United States Bankruptcy Court
Central District Of California**

255 East Temple Street, Los Angeles, CA 90012

**ORDER AND NOTICE OF DISMISSAL PURSUANT TO 11 U.S.C. § 521(i)(1)
FOR FAILURE TO FILE INFORMATION REQUIRED UNDER § 521(a)(1)**

DEBTOR INFORMATION:
ANNIE ISSAGHOLYAN

BANKRUPTCY NO. 2:14-bk-12600-RN

CHAPTER 7

Last four digits of Social-Security or Individual Taxpayer-Identification (ITIN) No(s)., (if any): xxx-xx-5430
Employer Tax-Identification (EIN) No(s).(if any): N/A
Debtor Dismissal Date: 4/7/14

Address:
234 ASH AVE.
BURBANK, CA 91502

The debtor has **FAILED** to file all of the information required under 11 U.S.C. § 521(a)(1) within 45 days after the date of the filing of the petition; and

The debtor has not made a request pursuant to 11 U.S.C. § 521(i)(3) within 45 days after the date of the filing of the petition that resulted in the Court allowing the debtor an additional period, not to exceed 45 days, to file such information upon a finding of justification.

IT IS ORDERED THAT:

- 1) Pursuant to 11 U.S.C. § 521(i)(1), the case is dismissed, the automatic stay is vacated, and all pending motions and adversary proceedings are moot and dismissed, effective the 46th day after the date of the filing of the petition.
- 2) Any discharge entered in this case is hereby vacated in its entirety.

DEBTOR DID NOT FILE A COMPLETED CERTIFICATION OF
EMPLOYMENT INCOME

Dated: April 7, 2014

BY THE COURT,
Kathleen J. Campbell
Clerk of Court

EXHIBIT 2

**United States Bankruptcy Court
Central District Of California**

In re:
ANNIE ISSAGHOLYAN

CHAPTER NO.: 7

CASE NO.: 2:14-bk-12600

CASE COMMENCEMENT DEFICIENCY NOTICE

To Debtor and Debtor's Attorney of Record,

YOUR CASE MAY BE DISMISSED IF YOU FAIL TO CURE THE FOLLOWING DEFICIENCIES:

A. You must cure the following within 14 days from filing of your petition:

- ☒ Debtor's Certification of Employment Income pursuant to 11 U.S.C. § 521(a)(1)(B)(iv)
(to check applicable box on form or paystubs are required)

Even if the indicated documents are not applicable to your particular situation, they must still be filed with the notation 'None' marked thereon.

For all items above that are not electronically filed you must file the original and the following number of copies in accordance with Local Bankruptcy Rules 1002-1(c) and 5005-2, and Court Manual, section 2-1(a)(7).

Chapter 7 Original only

Please return the original or copy of this form with all required items to the following location:

255 E. Temple Street, Room 940, Los Angeles, CA 90012

If you have any questions, please contact the below-referenced Deputy Clerk:

Dated: February 11, 2014

KATHLEEN J. CAMPBELL, CLERK OF COURT

**By: Olivia Ventura
Deputy Clerk**

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
1100 Wilshire Boulevard, Suite 2606, Los Angeles, California 90017

A true and correct copy of the foregoing document entitled (*specify*): Notice of Motion and Debtor's Motion to Vacate
Order Dismissing Chapter 7 Case; Memorandum of Points and Authorities; Exhibits and Declaration of Debtor's
Counsel in Support Thereof

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 04/10/2014, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Romel Ambarchyan romel@raandassociates.com
John J Menchaca (TR) jmenchaca@menchacacpa.com,
ca87@ecfbis.com; igaeta@menchacacpa.com
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 04/10/2014, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR: Annie Issagholyan, 234 Ash Avenue, Burbank, CA 91502

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 04/10/2014, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

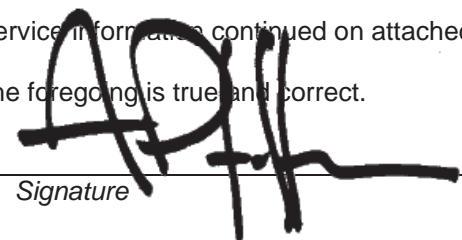
JUDGE: US Bankruptcy Court, 255 East Temple Street, Suite 1652, Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

04/10/2014 Albert Pfaffman
Date Printed Name

Signature



2. SERVED BY UNITED STATES MAIL:

1 Fbsd First Financial Bank USA Po Box 1200 North Sioux City, SD 57049	Focus Recievables Management 1130 Northchase Parkway Suite150 Marietta, GA 30067	SOCAL ANASTHESIA CMG, INC POBOX 60790 PASADNA, CA 91116
1st Financial Bk Usa 363 W Anchor Dr North Sioux Ci, SD 57049	Gecrb/care Credit Attn: bankruptcy Po Box 103104 Roswell, GA 30076	Td Bank Usa/targetcred Po Box 673 Minneapolis, MN 55440
ACCORD CREDITOR SERVICES, LLC POBOX 10002 NEWNAN, GA 30271	Gecrb/care Credit C/o Po Box 965036 Orlando, FL 32896	ThE Schreiber Law Firm 6 Interplex Dr. # 209 Travose, PA 19053
American Credit Bureau 2755 S Federal Hwy Boynton Beach, FL 33435	GECRB/GAP PO Box 965005 Orlando, FL 32896	West Bay Aquisitions PO Box 8009 Cranston, RI 08920
American Express PO Box 3001 16 General Warren Blvd Malvern, PA 19355	Glendale Adventist Med Center 1509 Wilson Terrace Glendale, CA 91206	
Amex Po Box 297871 Fort Lauderdale, FL 33329	Glendale Memorial Hospital PO Box 101095 Pasadena, CA 91189	
Applied Bank 601 Delaware Ave Wilmington, DE 19801	Grant & Weber 26575 West Agoura Rd Calabasas, CA 91302	
Applied Card Bank Attention: Bankruptcy Po Box 17125 Wilmington, DE 19886	HAWTHORNE RAD ASSOC MED GRP POBOX 190 SIMI VALLEY, CA 93062	
ARS PO Box 463023 Escondido, CA 92046-3023	IONA A BINA MD 222 W. EUILALIA ST. STE. 114 GLENDALE, CA 91204	
BURBANK ATHLETIC CLUB MEDIA PO BOX 10997 BURBANK, CA 91510	MAGIDOFF SADAT & GILMORE, LLP 21900 BURBANK BLVD., STE. 112 WOODLAND HILLS, CA 91367	
Cap One Po Box 85520 Richmond, VA 23285	Michael & Associates, PC 555 St. Charles Dr. # 204 Thousand Oaks, CA 91360	
Capital 1 Bank Attn: Bankruptcy Dept. Po Box 30285 Salt Lake City, UT 84130	Midland Funding 8875 Aero Dr. Ste. 200 San Diego, CA 92123	
Cmre Financial Services Inc 3075 E Imperial Hwy Ste 200 Brea, CA 92821	Midland Funding 8875 Aero Dr Ste 200 San Diego, CA 92123	
CMRE FINANCIAL SERVICES, INC 3075 E IMPERIAL HWY # 200 BREA, CA 92821	Nelson, LWatson & Associates, LLC 80 Merrimack St. Haverhill, MA 01830	
Cmre Financial Svcs In 3075 E Imperial Hwy Ste Brea, CA 92821	Nordstrom PO Box 6555 Englewood, CO 80155	
Conlsultants For Anes. & Mgmt. Of P PO Box 60790 Pasadena, CA 91116-6790	Portfolio Recovery Attn: Bankruptcy Po Box 41067 Norfolk, VA 23541	
Dsnb Macys 9111 Duke Blvd Mason, OH 45040	Portfolio Recvry&affil 120 Corporate Blvd Ste 1 Norfolk, VA 23502	
FAMILY READERS SERVICE PO BOX1469 ELYRIA, OH 44036	Selena Lantry MD, Inc. PO Box 4545 Boynton Beach, FL 33424	